

FACT SHEET



Andrew M. Cuomo, Governor

A PUBLICATION OF NEW YORK STATE
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION

32 EVICTION

Introduction

In New York State, an eviction of a tenant is lawful only if an owner has brought a court proceeding and obtained a judgment of possession from the court. A sheriff, marshal or constable can carry out a court ordered eviction. An owner may not evict a tenant by use of force or unlawful means. Any tenant who believes they are about to be evicted is advised to contact an attorney in private practice or with a legal aid or legal services agency, to protect their interests.

Tenant Information

Some tenants may qualify for free or discounted legal assistance. The following resources are available.

- The Legal Aid Society www.legal-aid.org
- Legal Services NYC www.legalservicesnyc.org
- NYS Bar Association Lawyer Referral and Information Service www.nysba.org
- Law Help NY is an on-line tool that assists low-income New Yorkers in resolving their legal problems. To search for legal assistance by zip code, log on to www.lawhelp.org/ny

Tenants may also want to contact the Housing Court in their county or the marshal. The following resources are available.

Housing Courts

- Bronx - 1118 Grand Concourse
- Brooklyn - 141 Livingston Street
- Manhattan - 111 Centre Street
170 East 121st Street (serving zip codes 10035 and 10037)
- Queens - 89-17 Sutphin Boulevard
- Staten Island - 927 Castleton Avenue

For assistance with questions about legal information, the court system in general, or any court-related matter, you can send an e-mail to question@nycourts.gov. You can also log on nycourts.gov or call 1-800-COURTNY.

The Office of Civil Justice at the NYC Human Resources Administration funds free Anti-Eviction Legal Services in the housing courts and community offices across New York City for low income tenants facing eviction. For information, email civiljustice@hra.nyc.gov or call 311.

Some senior citizens with a pending Housing Court case may be eligible to receive free legal and social services through the Assigned Counsel Project (ACP), jointly administered by the NYC Department for the Aging (DFTA) and the NYC Civil Court. For information, you can visit your court's Help Center.

For contact information and FAQs about Marshals in New York City, go to www.nyc.gov and the link to the Department of Investigations (DOI), or call 311.

Owner Information

All owners and their legal representatives should carefully review the sections of the rent regulations applicable to the situation that is causing them to contemplate initiating an eviction proceeding.

Certain eviction situations require the approval of the DHCR, prior to proceeding to court, while others do not. Certain situations require the filing of termination notices in specified time frames, while others do not.

For tenants subject to Rent Control, Section 2204.3(c) of the NYC Rent and Eviction Regulations requires that a copy of the notice of termination and an affidavit of service be served on the District Rent Office, which the courts have held, is the office located in the borough of the court proceeding. For proceedings in Manhattan, it is DHCR's position, that service can be upon either the Lower or Upper Manhattan Rent Office. For proceedings in Staten Island, where DHCR does not have a rent office, it is DHCR's position, that the service can also be upon either of the Manhattan Rent Offices. The Queens, Bronx and Brooklyn offices will be the place of service for proceedings in their respective boroughs.

Small building owners can contact the Small Building Owner Assistance Unit at Gertz Plaza, 92-31 Union Hall Street, Jamaica, New York 11433 if they need information and assistance in understanding these various regulations.

Grounds for Eviction

- **Non-payment of rent** - the owner does not need the approval of DHCR before initiating a court proceeding and does not need to serve the tenant with a termination notice within a specified time frame.
- The rent regulations identify other grounds for which an owner may initiate eviction proceedings based on the wrongful acts of a tenant which do not first need the approval of DHCR. However, these other grounds generally do require that the owner first serve the tenant with a termination notice, again within a specified time frame.

Some of these grounds are:

- o failure to cure a violation of a substantial obligation of the tenancy
- o damaging the housing accommodation
- o refusing the owner access to make needed repairs

Example - damaging the housing accommodation

The tenant, Mr. Wilson, has been using heavy machinery in the apartment, damaging the ceiling and walls and interfering with the comfort and safety of the other tenants.

The owner, Ms. Jamison, in accordance with the parties' lease, should serve Mr. Wilson with a notice, describing the problem in detail, and telling him that he is required to rectify the problem. This is known as a "Notice to Cure."

If uncured, the owner has to serve the tenant with a Termination Notice at least 7 calendar days in advance of the date that he wants the tenant to surrender possession.

After the required time period stated in the termination notice has elapsed, the owner may commence legal proceedings.

- The rent regulations identify other grounds upon which an owner may refuse to renew a lease or discontinue a tenancy, without DHCR approval. These also require the service on the tenant of required termination notices.

Some of these grounds are:

- o occupancy by the owner or member of the owner's immediate family. (See Fact Sheet #10)
- o recovery of the unit by a not for profit institution for use in connection with its charitable or educational purposes.
- o In New York City, the tenant is not using the unit as a primary residence.

Example - primary residence

The owner, Mr. Smith, believes the tenant, Mr. Jones, is not using his apartment as his primary residence. The owner must notify the tenant in writing that a lease renewal offer will not be made and this termination notice must be served at least 90 and not more than 150 days prior to the expiration of the lease. The owner must also give a 30 day notice to the tenant of his intention to commence a court action. The two notices can be combined.

As long as Mr. Smith served these notices during the proper time periods, he can proceed to take Mr. Jones to court to seek eviction as DHCR has no authority to intervene. Any objection a tenant may have to the adequacy of the notice of non-renewal or to the validity of the owner's claim can only be asserted in court.

- The rent regulations also identify grounds for refusal to renew a lease and for the eviction of a tenant which first require DHCR's approval.

Some of these grounds are:

- o withdrawal from the rental market
- o demolition (See Fact Sheet # 11)
- o the elimination of unsafe housing to either rehabilitate or demolish it pursuant to state or federal laws.

This fact sheet contains a basic overview and summary of this topic. For detailed information, please reference the sources cited below.

Sources

- Tenant Protection Regulations, Sections 2503, 2504
- New York City Rent Stabilization Code, Sections 2523, 2524
- New York City Rent and Eviction Regulations, Section 2204
- New York State Rent and Eviction Regulations, Section 2104

*For more information or assistance, call the DHCR
Rent InfoLine, or visit your Borough Rent Office.*

Queens

92-31 Union Hall Street
6th Floor
Jamaica, NY 11433
(718) 739-6400

Lower Manhattan

25 Beaver Street
5th Floor
New York, NY 10004

Brooklyn

55 Hanson Place
7th Floor
Brooklyn, NY 11217

Bronx

1 Fordham Plaza
4th Floor
Bronx, NY 10458

Upper Manhattan

163 W. 125th Street
5th Floor
New York, NY 10027

Westchester County

75 South Broadway
3rd Floor
White Plains, NY 10601